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ABSTRACT

This guide was developed by the Office of Juvenile Justice and Delinquency Prevention to provide states with technical assistance on monitoring juvenile detention and correctional facilities for the deinstitutionalization and separation requirements of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974. Reasons for monitoring are discussed, including the requirements of monitoring by the JJDP Act to ensure the deinstitutionalization of status offenders, separation of juveniles from adults, and the removal of juveniles from jails by 1985. Definitions of secure detention and correctional facilities are given and facilities which qualify under those definitions, and therefore require monitoring, are listed. Strategies are included for identifying these facilities. Preparations for on-site monitoring are discussed and paperwork needed by monitoring agency representatives is explained. Data needed for monitoring for deinstitutionalization are described and ways to find information are suggested. A step-by-step approach for monitoring for deinstitutionalization on-site is provided. Sections on monitoring for separation and for removal are also included. Monitoring alternatives to on-site visits are described, including secondary sources of data, self-reporting, and sampling for verification. The appendices contain sample monitoring forms, letters, and rules and regulations regarding a valid court order. (NRB)

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# MONITORING COMPLIANCE WITH THE JJDP ACT

## Strategies for Recordkeeping and Data Collection

Prepared for

The Office of Juvenile Justice
and Delinquency Prevention

U.S. Department of Justice

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January, 1984

## INTRODUCTION

When the Juvenile Justice and Delinquency Prevention Act of 1974 was passed, one of the more significant requirements was that states had to "provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and nonsecure facilities" to ensure that the deinstitutionalization and separation requirements of the Act were being met. In an effort to assist the states with monitoring, the Office of Juvenile Justice and Delinquency Prevention released the Monitoring Policy and Practices Manual, a comprehensive document with a compilation of information to assist states with their monitoring efforts. Information was provided on (a) monitoring systems, (b) collection of information, (c) inspection methods, (d) reporting and violations procedures, (e) general monitoring information, and (f) legal opinions impacting upon the monitoring effort.

On a regular basis since 1978, OJJDP has also sponsored regionalized Monitoring Workshops which have focused on changes in regulations, policies, and practices for monitoring compliance with the JJDP Act. Additional technical assistance on monitoring has been provided to individual states by the Community Research Center, under the auspices of OJJDP. This package, Monitoring Compliance with the JJDP Act, represents a further effort by OJJDP to provide the states with technical assistance on monitoring. Practical information, accompanied by appropriate forms and examples from the states, is provided so that monitoring agencies can more easily monitor juvenile detention and correctional facilities for the deinstitutionalization and separation requirements of the Act.

## WHY MONITOR

### 1) Requirements

The Juvenile Justice and Delinquency Prevention Act requires that monitoring must be completed to ensure compliance with the three major provisions of the Act:

> Deinstitutionalization of Status Offenders--Juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult or offenses which do not constitute violations of valid court orders, or such nonoffenders as dependent or neglected children, shall not be placed in secure detention facilities or secure correctional facilities (Section 223(a)(12)(A)).

Separation of Juveniles from Adults--Juveniles alleged to be or found to be delinquent and youths within the purview of paragraph (12) [above] shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges (Section 223(a)(13)).

Removal of Juveniles from Jails by 1985--Beginning after the five-year period following the date of the enactment of the Juvenile Justice Amendments of 1980, no juvenile shall be detained or confined in any jail or lockup for adults, except that the Administrator shall promulgate regulations which (A) recognize the special needs of areas characterized by low population density with respect to the detention of juveniles; and (B) shall permit the temporary detention in such adult facilities of juveniles accused of serious crimes against persons, subject to the provisions of paragraph (13), where no existing acceptable alternative placement is available (Section 223(a)(14)).

2) Other Reasons to Monitor

Comprehensive data are also useful for:

-- Monitoring a state's progress over time in achieving compliance with the provisions of the JJDP Act;

-- Documenting situations on noncompliance with the deinstitutionalization and separation mandates so that appropriate enforcement actions of an administrative or legal nature may be taken;

-- Planning purposes, such as when a jurisdiction is exploring detention alternatives or addressing the complete removal of juveniles from adult jails. With little extra effort, for example, the monitoring process could generate for a particular institution, such information as offense characteristics of juveniles admitted, lengths of stay, and release information;

-- Monitoring compliance with a state's own laws regarding deinstitutionalization and separation, if they are somewhat different from the provisions in the JJDP Act. A particular state, for example, may not allow any grace period for status offenders to be held in secure custody. In this situation, the monitoring effort could generate reports of violations of both state and federal law;

-- Providing information to advocacy organizations concerned with improving the state's juvenile justice system. Oftentimes, the comprehensive data collected for the JJDP monitoring effort are the only data generated on a statewide basis which document the admission

of status offenders in secure facilities, or the admission of juveniles in adult facilities.

## IDENTIFYING THE UNIVERSE OF FACILITIES

The Act requires that all secure detention and correctional facilities be monitored and receive at minimum an annual on-site inspection. For the purposes of Section 223(a)(12)(A), a secure detention or correctional institution is defined as:

- Any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders or nonoffenders; or

- Any secure public or private facility, which is also used for the lawful custody of accused or convicted adult criminal offenders.

As used to define a detention or correctional facility, the term "secure" includes residential facilities which have fixtures designated to restrict the movements and activities of persons in custody physically, such as locked rooms and buildings, fences, or other physical structures.

And includes:

- County Jails and Workhouses: Even though state law may prohibit the incarceration of a juvenile in a county jail, this does not mean that county jails should be excluded from the monitoring universe of facilities. Secure adult facilities should not be excluded from the monitoring universe solely because they did not house juveniles the previous monitoring year.

- Juvenile detention facilities

- Municipal lockups

- State correctional facilities for juveniles

- State correctional facilities for adults

- Secure private facilities for adults or juveniles

- Specialized facilities, e.g., secure drug treatment facilities, lockups under the jurisdiction of state police

STRATEGIES FOR IDENTIFYING THESE FACILITIES

1) State Department of Corrections or Youth Services

A good place to start in identifying the universe of facilities is the state's Department of Corrections. In some states, both adult and juvenile institutions fall under its jurisdiction. In other states, juvenile correctional institutions may be under the jurisdiction of a Department of Youth or comparable agency, which may provide correctional and noncorrectional services for juveniles. The state may also contract with privately-operated secure facilities which provide correctional services for adults or juveniles. These facilities are required to be monitored. A list of such privately-operated facilities may be furnished by the appropriate state department.

2) State Regulatory Agencies

At the county and municipal levels, juvenile detention facilities, adult county jails and workhouses, and municipal lockups must be monitored. In many states these facilities are inspected at least annually by a regulatory agency, usually the state Department of Corrections. This regulatory agency would have the names and addresses of all the county and municipal secure correctional institutions it inspects. The state Department of Health or state Fire Marshall's office may also conduct specialized inspections of county and municipal institutions. A check with these offices may be productive.

3) Other Statewide Agencies

If municipal lockups and county detention centers and jails are not inspected and regulated by a state agency, lists of these facilities may be available through specialized statewide public or private agencies, such as state criminal justice agencies, crime commissions, advocacy organizations, jail associations, or JJDP advisory groups.

4) Municipal Lockups

To identify the municipal lockups in a particular county, a good place to start is the county jail. Records at the jail or interviews with personnel most likely would identify the municipal lockups which transfer inmates to the county facility.

5) Specialized Facilities

The identification of specialized facilities must be conducted on a state-by-state basis. Some states have specialized secure facilities for sex or drug offenders; others do not. Likewise, state police in some states have their own lockups; other states have no such facilities.

PREPARATION FOR ON-SITE MONITORING

The preferred method of monitoring, and the one the most thorough in terms of data collection, is for representatives from the monitoring agency to make on-site visits to each of the identified facilities, where the data is taken directly from log books or admission forms. The primary advantage of this method is that verification of the data is completed on the spot. Also, if there are any questions regarding the data, how records are kept, incomplete information, or documentation of possible violations, answers may be provided immediately. If the monitoring agency has responsibility for physical or program inspections, the two functions may often be combined for the sake of efficiency.

Prior to making any on-site visits, representatives from the monitoring agency should ensure they have the following:

-- Copies of all appropriate laws, regulations, standards, and guidelines relevant to holding juveniles in various facilities, age of jurisdiction, monitoring jurisdiction, and any other issues which may arise in the dialogue between representatives of the facility, and representatives of the monitoring agency.

Examples include the following:

- In New Jersey, status offenders are not permitted in secure detention facilities for any length of time, regardless of how brief. This requirement makes the monitoring process for deinstitutionalization much easier. In addition, the monitoring effort would detect violations of both state and federal law.

- Many states prohibit totally the incarceration of status offenders, even those who qualify under the JJDP valid court order exemption. Accordingly, monitors from these states do not have to determine if the valid court order regulations apply to status offenders found in secure custody.

- Maryland prohibits all jailing of juveniles under juvenile court jurisdiction. As a result, this statutory provision makes the monitoring of the jail removal section much easier.

- Some states only permit the jailing of juveniles of a certain age or older--e.g., South Dakota (15), Utah (16), and Colorado (14).

-- A copy of a letter from the monitoring agency to the facility which briefly describes the monitoring agency, its responsibilities and jurisdiction, and the fact that representatives will occasionally conduct on-site monitoring at the facility. For a sample of such a letter, see Sample Letter 1 in Appendix A.*

-- Internal data collection forms to ensure that the collection of information at each facility is consistent, thorough, and efficiently completed. Prototypes of forms which could be used by the monitoring agency are enclosed as Forms 1-3 in Appendix A. Form 1 may be used to monitor juvenile detention and correctional facilities for the deinstitutionalization requirement. Form 2 may be used to monitor adult facilities for deinstitutionalization and separation. For facilities where juveniles and adults are routinely confined in the same facility, although in separate sections, Form 3 may be used to monitor the degree of separation during various on-site visits. The monitoring agency's development of its own data collection forms, for each institution monitored, makes the aggregation of data for the annual monitoring report much simpler. Form 4 in Appendix A provides one example of how aggregate data may be maintained by a monitoring agency.

AUTHORITY TO MONITOR

Ideally the monitoring agency should have the authority, under legislation, executive order, or administrative regulations, to require facilities to maintain specific information and records to assist the monitoring effort. This authority should also allow representatives of the monitoring agency to review the records on-site at periodic intervals.

-- Legislation in California, for example, requires that:

> every county shall keep a record of each minor detained [in a secure facility], the place and length of time of such detention, and the reasons why such detention was necessary. Every county shall report, on a monthly basis, this information to the Department of the Youth Authority, on forms to be provided by that agency.

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*Sample correspondence and forms are provided only as examples; each state and monitoring agency should devise forms appropriate to their individual states.

-- In New Jersey, the Department of Corrections inspects and regulates all municipal lockups, county jails, and juvenile detention centers. The unit in New Jersey which monitors the state's compliance with the JJDP Act is conveniently located in the Department of Corrections. Accordingly, the monitoring unit has statutory authority to review admissions to all correctional facilities.

-- In Pennsylvania, Department of Public Welfare regulations require the officer in charge of a jail to call the state toll-free Child Abuse Hotline when a juvenile is placed in a county jail, and when that juvenile is released.

## MONITORING FOR DEINSTITUTIONALIZATION

At minimum, accurate admission and release records must be maintained, so that compliance with the Juvenile Justice and Delinquency Prevention Act may be documented. To document compliance with deinstitutionalization, the following data are necessary to satisfy the JJDP reporting requirements:

(1) The total number of accused status and nonoffenders held in any secure detention or correctional facility...for longer than 24 hours exclusive of nonjudicial days, excluding those held pursuant to a judicial determination that the juvenile violated a valid court order.

(2) The total number of adjudicated status offenders and nonoffenders held in any secure detention or correctional facility...excluding those held pursuant to a judicial determination that the juvenile violated a valid court order.

NOTE: According to these definitions, if an accused status offender is admitted to a juvenile detention facility at 5:00 p.m. on a Friday and is released at 10:00 a.m. the following Monday, this juvenile, for monitoring purposes, would not be considered as held over 24 hours. However, if the same juvenile was admitted at 5:00 p.m. on Monday and released after 5:00 p.m. on Tuesday, he would be listed as detained over 24 hours. The 24-hour grace period and the exclusion of nonjudicial days is not applicable, however, to the adjudicated status offender.

## HOW TO FIND INFORMATION

### 1) The Log Book

In most facilities, the information necessary for monitoring will be found in an admissions log book containing admission information on each juvenile or adult admitted to the facility. An example of a page from an admissions log

book may be found on Form 5 in Appendix A. This admissions log contains the following information:

1. Admission Date--necessary for monitoring;

2. Time of Admission--necessary for monitoring, since there is a 24-hour grace period for accused status offenders;

3. Name;

4. Admission Number or File Number--many facilities maintain individual files on juveniles admitted. Oftentimes they are filed by an admission number or file number;

5. Age--necessary for monitoring;

6. Date of Birth--optional, but provides a good cross-check to verify if the resident is an adult or juvenile;

7. Charge--necessary for monitoring; if the juvenile has been charged with a number of offenses, the most serious offense should be listed. Further, if the juvenile has been charged with both a delinquent and a status offense, the delinquency offense should be listed;

8. Referring Agency--optional, but sometimes it is necessary to check with the referring agency to verify information;

9. Municipality of Juvenile's Residence--not needed for monitoring, but sometimes needed to check with law enforcement or school authorities;

10. Disposition--not needed for monitoring purposes, but if good information is maintained, this generates good data for planning purposes;

11. Discharge Date and Time--necessary for monitoring;

12. Number of Previous Admissions--not essential for monitoring, but could be helpful. If there is a previous admission, there probably is a file to verify information. Also, if a juvenile is admitted with a vague charge which may be a status offense, and there have been many previous admissions, a reasonable inference may be made that the juvenile will be classified as a delinquent.

13. Total Number of Days--not necessary for monitoring purposes, but is necessary for the facility to complete internal activity reports.

2) Working with Facility Administrators to Improve the Format of the Log Book

-- The admissions log should be maintained in chronological order by date for easy access to information on previous admissions. Some facilities maintain admissions logs alphabetically; this is not recommended since it is difficult to review previous admissions.

-- Juvenile detention facilities should maintain an admissions log book for all admissions into the facility. Each year a new log book should be utilized.

-- If an adult county jail rarely admits juveniles, it is necessary to maintain only one admissions log book. However, if a significant number of juveniles are admitted to an adult county jail, it may be easier, both for monitoring purposes and for generating internal facility reports, to maintain separate admissions log books for adults and juveniles. If separate log books are maintained, the adult admissions log should still be reviewed, since it is possible for 18 year-olds (in states where this is the statutory age of majority) to still be under the jurisdiction of the juvenile court.

-- The "Juvenile Facility Admission/Release Form" (Form 6 in Appendix A) is an example of an admission/release form, which in many facilities is completed in addition to the entry in the admission log book. A completed form is usually maintained in each juvenile's folder.

-- For monitoring purposes, the completion of this form provides a good opportunity to verify data but is not recommended as a substitute for maintaining an admission log book because individual or groups of admission sheets by time period may easily get lost or misplaced. In addition, verification of data becomes almost impossible if the facility wishes to withhold information about the admission of selected juveniles.

A RECOMMENDED APPROACH WHEN MONITORING DEINSTITUTIONALIZATION ON-SITE

1) Review the admissions log book and note the admission of any juveniles admitted with a status offense. Hundreds of admissions may be reviewed in a relatively short period of time. Juveniles admitted with such "charges" as violation of probation, bench warrant, remand by court, contempt of court, etc., must also be noted, because at this point in the monitoring process the monitor does not know if the juvenile should be classified as a delinquent or a status offender. To check further on these cases, it is necessary to consult secondary sources of information in the facility, if they exist. In most cases, the juvenile's individual folder would provide further information about the admitting charge. Many facilities also cross-file information on index cards, which also should be checked as well to verify or elicit

information. For example, when juveniles are admitted for violation of probation, the monitor must determine if probation was the court's disposition for a criminal-type or status offense. If a juvenile is admitted to a secure facility for violating probation, this would constitute a violation only if the probation was a disposition for a status offense.

2) Check secondary sources of all listed status offenses. A frequent problem encountered in monitoring is that the listed charge in the admissions log may not represent the most serious offense. For example, the admissions log book may indicate that a juvenile was admitted for runaway. However, further checking into secondary sources may reveal that the juvenile was actually charged with runaway and possession of drugs, a situation that would offically classify the juvenile as a delinquent.

3) Addressing the Problem of Vague Charges--Monitoring facilities with high proportions of juveniles admitted for such charges as violation of probation, bench warrant, etc., may pose significant problems for monitoring representatives. The approach of the monitoring agency should be to attempt to resolve this problem on a system or facility basis, rather than on an admission-by-admission basis. For example, when this problem exists, letters should be sent to the facility administrator and juvenile court officials noting the problem from the monitoring perspective. For a sample of such a letter, see Sample Letter 2 in Appendix A. Appropriate decision makers should be urged to develop a policy providing that when juveniles are admitted for such "charges," the original offense for which the juvenile received probation be noted on all records. If occasional problems on a case-by-case basis continue to exist, they should be resolved by the facility and not the monitoring agency.

In the course of documenting that status offenders have been admitted to secure facilities, a maximum amount of information on each case should be gathered for enforcement or follow-up purposes. If each violation is reviewed and analyzed, patterns may emerge and procedures may be developed by the facility or outside agencies, to prevent future violations. For example, a review of the cases may reveal that the violations are emanating from a particular municipality or during certain hours of the day. Knowledge of these patterns could be the first step in identifying remedies. Also, if information on each violation is passed on to another agency for enforcement purposes, it is imperative that as much information as possible is gathered on all cases.

4) Addressing the Valid Court Order Exception--All accused and adjudicated status offenders and nonoffenders held in secure facilities would be considered violations of the deinstitutionalization requirements of the JJDP Act. The only exception would be those juveniles held pursuant to a judicial determination that they violated a valid court order. Although the exceptions pursuant to the valid court order provisions would be relatively small in number, monitoring representatives should take note of the conditions which must be present before an exception can be made. These conditions may be

found in the August 16, 1982 issue of the Federal Register, and are included in Appendix B, along with a Valid Court Order Checklist.

MONITORING FOR SEPARATION

1) Determine If Juveniles Have Been Admitted to Adult Facilities. Although seemingly a simple task, inadequate recordkeeping often hinders this determination. state correctional facilities generally have better recordkeeping systems than either county jails or municipal lockups, which most often have the worst recordkeeping systems of the three facility types. As noted in the previous section, it is important for monitoring agencies to work closely with facilities in upgrading data collection and recordkeeping systems. At the most basic level, admissions log books at all correctional facilities should contain all the necessary information for the JJDP monitoring process. Prototypes of forms (e.g., Forms 5 and 6 in Appendix A) should be given to appropriate correctional administrators. Regarding recordkeeping problems, it is important that the monitoring representative review any problems with decision-makers or administrators, who have the authority to implement any recommended changes. During this review, it should be pointed out that better data collection and recordkeeping will also assist the facility in generating internal operations reports.

In county jails to which juveniles are routinely admitted, documentation of the presence of juveniles is usually not a problem. But, even in states which prohibit juveniles from being placed in adult jails, admissions log books must be carefully scrutinized. Watch for:

-- Offenders who have reached the age of majority admitted as probation violators may actually be under the jurisdiction of the juvenile court.

-- Some offenders may lie about their age upon admission.

-- Some juvenile detention administrators may administratively transfer disruptive juveniles to the county jail.

-- Juvenile court intake workers may allow the county jail to be used when the juvenile detention facility is at capacity.

Because of these situations, and other possible exceptions to absolute prohibition of juveniles in adult jails, admissions log books must be carefully scrutinized to detect juvenile admissions. It may also be appropriate to interview the administrator or staff about juveniles admitted to the facility.

NOTE: Exception pursuant to federal regulations involves juveniles waived to adult court. The federal requirements for the separation of adults and juveniles "excepts only those juveniles formally waived or transferred to criminal court and criminal charges have been filed, or juveniles over whom a

criminal court has original or concurrent jurisdiction and such court's jurisdiction has been invoked through the filing of "criminal charges." This group constitutes a "swing group"--to satisfy federal regulations they may be held in juvenile or adult facilities. If waiver status is not noted in the admissions log book, it usually will be noted in the juvenile's folder, or in any admission papers accompanying the juvenile to the facility.

2) Is There Adequate Separation? Once a determination is made that juveniles have been admitted to the adult facility, the second step of compliance monitoring for separation, determining if there is adequate separation between adults and juveniles, is initiated. When juveniles and adults are routinely together in the same facility, although in separate wings, some contact between them is inevitable. The federal standard for this incidental contact is a "complete a separation as possible and permits no more than haphazard or accidental contact between juveniles and incarcerated adults." Federal regulations also prohibit contact between juveniles and adult inmate trustees. Pursuant to federal regulations, states must also ensure that adjudicated juvenile offenders are not reclassified administratively and transferred to an adult (criminal) correctional authority, to avoid the intent of segregating adults and juveniles in correctional facilities.

ON-SITE MONITORING FOR SEPARATION

To document compliance with the separation requirement, on-site monitoring is imperative. It is only after a:

-- review of records,

-- visual inspection of the facility,

-- personal observation of the program in operation, and

-- interviews with the facility administrator, staff, and residents,

that a monitoring representative can make a determination there is adequate separation between adults and juveniles. Oftentimes, there is disagreement between facility officials and monitoring representatives as to whether or not adequate separation exists. For this reason, it is important for monitors to be familiar with all appropriate regulations on separation, and all program areas where separation may be an issue.

As a starting point, monitoring representatives may wish to use Form 3, "Separation Monitoring Report," as a guide. Various areas of the facility and program are designated and each should be reviewed to determine the level of separation:

1. Reception--Is there a separate juvenile reception area? When juveniles and adults are admitted together, are they processed together in the same area of the building?

2. Housing--Usually, this is the easiest program area to separate between adults and juveniles. But, can adults and juveniles see or hear each other? If the juvenile section is full, is the next juvenile admitted housed with adults? Are adults on protective custody status housed with juveniles?

3. Dining--Do adults and juveniles eat at the same time, or is dining time-staggered? Do juveniles and adults pass each other in the hallways to and from the dining area? When juveniles finish eating, are they permitted to go to a recreation area where they may freely mingle with adults for a brief period?

4. Recreation--Are recreation periods time-staggered? Are juveniles and adults allowed in exercise yards together as long as they stay on opposite sides of the yard?

5. Education--If education is provided, are there separate classes for adults and juveniles? Are there specialized classes where juveniles and adults are placed in the same class? If there is a library, are certain hours or days off limits to juveniles or adults?

6. Vocation/Work--Are juveniles and adults on separate work details? Do juveniles and adults report to the same area when work assignments are given out?

7. Visiting--Are visiting days different for adults and juveniles? Or, are adults and juveniles in the same room when regular visiting takes place?

8. Transportation--Are adults and juveniles transported to court or other agencies outside the facility together in the same vehicle?

9. Medical/Dental--Do adults and juveniles have sick call at the same time? Is medication dispensed to adults and juveniles at the same time? If there is an infirmary, is any separation provided between adults and juveniles?

10. Detention/Segregation--If there is a detention or administrative segregation area, is provision made to separate adults and juveniles?

The above represent some of the questions which should be answered before a determination can be made as to whether or not adequate separation exists. To answer the above questions, the monitoring representative should:

-- review any program descriptions or written policies and procedures which exist;

-- personally observe the program in operation, especially dining and shift movements;

-- interview the administrator and other staff; and

-- interview juveniles in residence.

The program areas listed above most often will apply to county jails and in some states, adult correctional facilities, which also house juvenile offenders. Generally speaking, most of the program areas to be reviewed for separation will not apply to municipal lockups, which often are difficult to monitor for separation because of poor recordkeeping and the transient population. Many offenders, both adult and juvenile, are often placed in municipal lockups for only several hours. Because of this, it is difficult to interview juveniles in residence or document violations on the spot. In developing recordkeeping systems for municipal lockups, it is essential that cell numbers where adults and juveniles are placed, be recorded in the admission log book. In this way, the monitor can determine if juveniles were adequately separated from adults.

Some separation violations are often easier to correct than deinstitutionalization violations. After a comprehensive review of the program, the monitoring representative should be able to delineate program areas where separation is not complete. A review of these areas with the program administrator can sometimes lead to program changes to effectuate a more complete separation in areas where violations exist. As in the case of deinstitutionalization violations, when enforcement actions are to be taken against separation violations, it is imperative for the monitoring representative to provide as much information on the violations as possible.

For example: In New Jersey, prior to complete environmental separation between juveniles and adults, the monitoring unit would issue detailed reports for each institution in which juveniles and adults were housed together. The report would be sent to the superintendent and would detail all violations found during on-site inspections.

## MONITORING FOR REMOVAL

As noted earlier, the first step of monitoring for separation is to determine if juveniles have been admitted to adult facilities. This process will assist the monitoring representative in completing the annual monitoring report for the jail removal section of the Act, Section 223(a)14. To demonstrate the progress toward and extent of compliance with this section, the annual monitoring report must show, among other things, the:

-- Total number of adult jails holding juveniles during the past 12 months.

-- Total number of adult lockups holding juveniles during the past 12 months.

-- Total number of juvenile criminal-type offenders held in adult jails in excess of six hours.

-- Total number of juvenile criminal-type offenders held in adult lockups in excess of six hours.

-- Total number of accused and adjudicated status offenders and nonoffenders held in any adult jail or lockup.

Further pertinent information on monitoring for the jail removal section was provided in the Federal Register of December 31, 1981 and should be noted by monitoring representatives:

> For the purpose of monitoring and reporting compliance with the jail removal requirement, the House Committee on Education and Labor stated, in its Committee Report on the 1980 Amendments, that it would be permissible for OJJDP to permit states to exclude, for monitoring purposes, those juveniles alleged to have committed an act which would be a crime if committed by an adult (criminal-type offenders) and who are held in an adult jail or lockup for up to six hours. This six-hour period would be limited to the temporary holding in an adult jail or lockup by police for the purpose of identification, processing, and transfer to juvenile court officials or to juvenile shelter or detention facilities. Any such holding of a juvenile criminal-type offender should be limited to the absolute minimum time necessary to complete this action, not to exceed six hours, but in no case overnight. Even where such a temporary holding is permitted, the Section 223(a)(13) separation requirement would operate to prohibit the accused juvenile criminal-type offender from being in sight or sound contact with an adult offender during this brief holding period. Under no circumstances does the allowance of a six hour "grace period" applicable to juvenile criminal-type offenders permit a juvenile status offender or nonoffender be detained, even temporarily, in an adult jail or lockup under Section 223(a)(14). In monitoring for compliance with Section 223(a)(14), the regulations require states to report the number of juvenile criminal-type offenders held in adult jails and lockups in excess of six hours.

To monitor effectively the deinstitutionalization and jail removal requirements, it is necessary to know the number of hours a juvenile was placed in a secure facility. For this reason, the Admissions Log Book (Form 5) requires the time of admission as well as the time of release. Whenever the right-hand column, Total Days, notes one day, the monitor should check the number of hours the juvenile was in the facility.

## MONITORING ALTERNATIVES

As noted throughout this package, the preferred method of monitoring is on-site. However, in many states, on-site monitoring of all admissions into all facilities is not practical because of the large number of facilities, the rural nature of many states, travel considerations, and the resources which would be necessary for full on-site monitoring. It is possible, however, to provide good documentation of a state's compliance with the deinstitutionalization and separation requirements of the Act without complete on-site monitoring.

### 1) Secondary Sources of Data

As a first step, monitoring agencies should seek any data which are routinely collected by facilities or correctional systems, and could aid in compliance monitoring. For example, some statewide correctional systems have developed computerized data on all juveniles and adults admitted into the state correctional system. Printouts are generally available by institution and list characteristics of all residents, including name, date of birth, and admitting offense, among other things. With this scant information, a determination could be made if any status offenders were admitted into juvenile correctional facilities, and whether juvenile delinquent offenders were admitted into adult institutions. If these computerized printouts were available to monitoring agencies, much of the monitoring of these facilities could be completed without on-site visits. Some on-site verification of the data is necessary, however, but clearly, the number of admissions to be reviewed on-site would decrease significantly.

At the county level, many judges require a daily juvenile detention or jail sheet, which lists all residents in the juvenile detention facility or the county jail. Usually, these sheets list the names and ages of the residents along with dates of admission and charges. Again, those are all the data that are needed to determine if status offenders are in the juvenile detention facility, or if juveniles are in the county jail. If juveniles are in the county jail, at some point the monitor would have to make an on-site visit to determine the level of separation between the two groups.

In the two situations noted above, data which are collected for other purposes may be used for monitoring purposes. In both situations, the use of existing data decreases the need for complete on-site monitoring. However, both situations require on-site verification of the data.

2) Self-Reporting

Some monitoring agencies minimize on-site monitoring by having the facilities fill out questionnaires pertaining to the reporting requirements for the annual Monitoring Report. For example, in order to demonstrate compliance with the deinstitutionalization requirement, facilities would note, for a given time period, how many accused and adjudicated status offenders were held in the facility. These questionnaires would then be mailed in to the monitoring agency and aggregated for the annual Monitoring Report. In this situation the data are summarized by each facility. The monitoring agency could require this summarized data every month, three months, six months, or on an annual basis. Ideally, summarized data of this type should be submitted to the monitoring agency as frequently as possible, perhaps every month or every three months.

Another method of monitoring by mail is to require each facility to submit admission data on all juveniles admitted to juvenile detention facilities or adult correctional facilities. This approach would be more feasible in rural jurisdictions or for facilities which did not admit large numbers of juveniles. An example of a "Monthly Juvenile Admission/Release Form" which may be used is noted in Appendix A as Form 7. A form of this type may be used, or sheets from the admissions log book may be reproduced, and sent to the monitoring agency on a monthly basis.

Regardless of the type of monitoring--on-site, use of existing data, mail-in self-reporting of summarized data, or mail-in self-reporting of complete admission data--the monitoring agency should strive for the collection of data which cover a full 12-month period. Data should reflect all admissions into juvenile detention and correctional facilities, and thus all violations would be noted. Data covering a full 12 months are already required for demonstration of compliance with separation, unless the state can demonstrate to OJJDP that four special conditions regarding separation have been met (see Federal Register of December 31, 1981 (46 FR 63266)). Many states also collect complete 12 month data for the deinstitutionalization requirement.

When existing data or self-reported facility data are utilized for monitoring purposes, the need for on-site verification of the data is imperative. Essentially, there are two ways to provide on-site verification in these situations--(1) monitor a sample of admissions at all facilities; or (2) monitor a sample of admissions at a sample of facilities. Regardless of which method is used, verification of separation should also be completed during the on-site visits.

3) Sampling for Verification

Various sampling options exist when a proportion of admissions is to be reviewed during the on-site visit. For example, admissions from 20 percent of

randomly selected days for a one-year period could be reviewed. The year could also be divided into quarters, and one month could be selected from each quarter. All admissions during the selected months would be reviewed to verify the original monitoring data. Another method would be to randomly select three or four days each month and review all admissions on these days. This process would then be completed for all 12 months of the year.

When a sample of facilities is to be monitored on-site for verification, the following options should be considered:

-- Geographic--a mixture of facilities which serve urban, suburban, and rural jurisdictions should be monitored.

-- Past Violations--facilities which historically have had deinstitutionalization and separation volations should be monitored.

-- Referral--referrals from other agencies regarding potential or actual violations may be made to the monitoring agency. These referrals should be given special consideration.

-- Tourist Areas--since tourist areas often attract youths, municipal lockups, county jails, and juvenile detention facilities serving these areas should be given special consideration for monitoring purposes.

To provide an example of sampling decisions, assume there are 100 municipal lockups in the state, and full on-site monitoring cannot be completed. Based on past practices, perhaps the ten facilities with the most violations should be selected for on-site verification monitoring. Of the remaining facilities, perhaps ten percent could be selected from each county, ensuring that some facilities are selected from tourist areas as well as urban, suburban, and rural areas. Pursuant to federal regulations, all facilities must receive an annual on-site inspection. Thus, those facilities not selected for on-site verification monitoring must still receive an on-site inspection, perhaps by a state jail inspection unit.

In conducting the actual on-site verification monitoring, only a sample of admissions would be selected for review. These data would then be compared to the data submitted by the facility to verify the number of violations. In addition to checking admissions during the on-site verification visits, monitoring representatives would also determine the level of separation at facilities which hold both adults and juveniles. If any data collection or recordkeeping problems are found by the monitoring representatives, they should be resolved with appropriate facility officials.

## APPENDIX A

Sample Monitoring Forms

Form 1

JJDP MONITORING UNIT

JUVENILE FACILITY MONITORING REPORT

Facility _____ Phone: _____

Superintendent _____ Recordkeeper _____

Dates of Inspection _____ _____ _____

Monitoring Period

| Total Admissions: | Jan. | Feb. | Mar. | Apr. | May | June | July | Aug. | Sept. | Oct. | Nov. | Dec. | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Juvenile Delinquent Offenders | | | | | | | | | | | | | |
| Accused Status or Non-Offenders | | | | | | | | | | | | | |
| Adjudicated Status or Non-Offenders | | | | | | | | | | | | | |

1. List all pertinent data for any status offenders found to have been admitted to the facility: Name, date and time of admission, date and time of release, offense, sex, age, and length of stay:

   a. _____

   b. _____

   c. _____

2. For each juvenile listed above, please provide any additional pertinent information, including, for example: reason for admission, source of complaint, disposition, etc.

   _____

   _____

   _____

   _____

   _____

(To be used for juvenile detention and correctional facilities.)

Form 2

JJDP MONITORING UNIT

ADULT FACILITY MONITORING REPORT

Name of Facility _____ Phone: _____

Superintendent _____ Recordkeeper _____

Dates of Inspection _____ _____ _____

Monitoring Period

| Total Admissions: | Jan. | Feb. | Mar. | Apr. | May | June | July | Aug. | Sept. | Oct. | Nov. | Dec. | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Adults | | | | | | | | | | | | | |
| Delinquent Offenders-- Adequately Separated | | | | | | | | | | | | | |
| Delinquent Offenders-- NOT Adequately Separated | | | | | | | | | | | | | |
| Status or Non-Offenders-- Adequately Separated | | | | | | | | | | | | | |
| Status or Non-Offenders-- NOT Adequately Separated | | | | | | | | | | | | | |

1. List all pertinent data for any juvenile offenders found to have been admitted to the facility: Name, date and time of admission, date and time of release, offense, sex, age, and length of stay:

   a. _____

   b. _____

   c. _____

2. List any additional information for any of the above named juveniles including reason for admission, waiver status, source of complaint, disposition, etc. _____

   _____

   _____

3. Please describe the area in the facility where juvenile offenders are held for any length of time (i.e., degree of separation) _____

   _____

   _____

   _____

   _____

   _____

(To be used for municipal lockups, county jails and workhouses, and adult correctional facilities.)

Form 3

JJDP MONITORING UNIT

SEPARATION MONITORING REPORT

Name of Facility _____ Phone: _____

Superintendent _____

Dates of Inspection _____ _____ _____

Please note to what extent separation of juvenile and adult offenders exists in the areas listed below.

Please use the following code in describing the degree of separation:

(1) Adult inmates and juveniles can have physical, visual, and aural contact with each other (no separation).

(2) Adult inmates and juveniles cannot have physical contact with each other, but they can see or hear each other (physical separation).

(3) Conversation possible between adult inmates and juveniles although they cannot see each other (sight separation).

(4) Adult inmates and juveniles can see each other but no conversation is possible (sound separation).

(5) Adult inmates and juveniles within the same facility cannot see each other and no conversation is possible (sight and sound separation).

(6) Adult inmates and juveniles are not placed in the same facility (environmental separation).

| | 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|---|
| Reception | | | | | | |
| Housing | | | | | | |
| Dining | | | | | | |
| Recreation | | | | | | |
| Education | | | | | | |
| Vocation/Work | | | | | | |
| Visiting | | | | | | |
| Transportation | | | | | | |
| Medical/Dental | | | | | | |
| Detention/ Segregation | | | | | | |

Does the facility utilize adult trustees for supervision of juveniles?

Yes _____ No _____

If so, how many adults are involved and what are their specific duties?

Form 4

MONITORING REPORT ON COUNTY JAILS

| Name of Facility | Total Admissions Sampled | Type and Quality of Record System | Juveniles Held in County Jails | | | Violations of JJDP Act | Degree of Separation |
|---|---|---|---|---|---|---|---|
| | | | Violations of State Law Number | Motor Vehicle Offenses Number | Waivers to Adult Court Number | Number | |
| | | | | | | | |
| | | | | | | | |
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BEST COPY AVAILABLE

Form 5

ADMISSIONS LOG BOOK

| ADM. DATE | TIME | NAME | ADM. # OR FILE # | AGE | *DOB | SEX | CHARGE | *REFERRING AGENCY | *MUNICIPALITY OF JUV. RESIDENCE | *DISPOSITION: AGENCY JUV. DISCHG. TO | DISCHG. DATE & TIME | *# OF PREVIOUS ADM. | *TOTAL OF DAYS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1/3 | 10:00 a.m. | John Doe | 1 | 15 | | M | B&E/Theft | Lincoln City PD | Lincoln City | Released to parents | 1/7 10:00 a.m. | 1 | 4 |
| 1/4 | 4:00 a.m. | Jane Dear | 2 | 16 | | F | VOP: Shop-lifting | Probation | Washington | Released to parents | 1/5 Noon | 2 | 1 |
| 1/5 | 6:00 p.m. | Chris Crime | 3 | 17 | | M | Agg. Assault | Jefferson PD | Jefferson | Sent to Trng. School | 2/19 1:00 p.m. | 6 | 44 |
| 1/7 | 7:20 p.m. | Larry Little | 4 | 13 | | M | BW: fail to appear | Juv. Court | Johnson City | Released to parents | 1/9 9:00 a.m. | 0 | 2 |

*Optional

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Form 6

JUVENILE FACILITY ADMISSION/RELEASE FORM

Name: _____

Address: _____

_____

Age: _____ Date of birth: _____

Sex: _____ Race: _____

Date of admission: _____ Time of admission: _____

Offense (from accompanying complaint): _____

Admitting agency: _____

Admitted by: _____

Is the juvenile on probation? Yes _____ No _____

Is the juvenile on parole? Yes _____ No _____

Admitted to this facility previously? Yes _____ No _____

Released to: _____

Release date: _____ Release Time: _____

Disposition: _____

Supervisor completing form: _____

Form 7

## MONTHLY JUVENILE ADMISSION/RELEASE FORM

| ADM. # OR FILE # | NAME OR INITIALS | AGE | SEX | ADM. DATE & TIME | CHARGE | DISCHG. DATE & TIME |
|---|---|---|---|---|---|---|
| | | | | | | |
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Sample Lecter 1

John Smith, Warden
Lincoln County Jail

Dear Warden Smith:

To demonstrate the commitment by the State Department of Juvenile Justice to enhance the State's juvenile justice system, the Juvenile Monitoring Unit was recently created. Among other things, the Unit will be responsible for monitoring the State's compliance with the Federal Juvenile Justice and Delinquency Prevention (JJDP) Act.

Essentially, the JJDP Act requires the State to provide the following:

1. Deinstitutionalization of status offenders--the Federal Act requires that status offenders, juveniles who commit such non-criminal acts as running away or incorrigibility, shall not be placed in secure institutions. Although the State's juvenile code prohibits such placement, Federal regulations require the Juvenile Monitoring Unit to monitor admissions to all secure correctional facilities to ensure compliance.

2. Separation of adults and juveniles--the Federal Act requires that juvenile offenders shall not be detained or confined in any institution in which they have regular contact with incarcerated adult offenders. Federal regulations require the Juvenile Monitoring Unit to determine if juveniles have been admitted to adult facilities and, if so, determine the level of separation between the two groups.

3. Monitoring compliance--finally, the Federal Act also requires that an adequate system of monitoring jails, juvenile detention facilities, and correctional facilities be developed to ensure that the requirements of deinstitutionalization and separation are being met. The Juvenile Monitoring Unit has been created in the Department of Juvenile Justice to implement this monitoring requirement.

To ensure that the above requirements are adhered to, several visits to your facility will be made by the Juvenile Monitoring Unit in the next year. The purpose of these visits will be to review admission records and determine

the level of separation between adults and juveniles. Pursuant to legislation (statute number) the Department is empowered to conduct such visits.

The Director of the new Unit is Thomas Jones and his assistant is Mary Quinn. In closing, I am sure that I can count on your cooperation and assistance to Mr. Jones and Ms. Quinn in carrying out their monitoring responsibilities. With your help, I am sure our State will be able to continue its fine reputation in providing juvenile justice services.

Sincerely yours,

William Thompson, Commissioner
Department of Juvenile Justice

Sample Letter 2

The Honorable John Kirby
Juvenile Court Judge

Dear Judge Kirby:

The Juvenile Monitoring Unit in the State Department of Juvenile Justice is responsible for monitoring the State's compliance with the Federal Juvenile Justice and Delinquency Prevention (JJDP) Act. Section 223 (a)(12)(A) of this Act provides that:

> Juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult or offenses which do not constitute violations of valid court orders, or such non-offenders as dependent or neglected children, shall not be placed in secure detention facilities or secure correctional facilities.

In order to fulfill the Act's requirements, the Juvenile Monitoring Unit conducts periodic visits to all juvenile detention facilities in the State and monitors the admissions to these facilities. In some cases, such as a Bench Warrant, Violation of Probation, or a Court Remand, the original or "true" offense for which the juvenile has been admitted cannot be ascertained by reviewing the records at the juvenile detention facility. Accordingly, it cannot be determined if the juvenile is a delinquent, status, or non-offender.

During the most recent monitoring visit to the Lincoln County Juvenile Detention Facility, all the admissions over a six-month period were monitored. It was evident from this review that a serious recordkeeping problem exists at the facility. As an example, only 40% of the offenses for which juveniles were admitted could be verified by reviewing the facility's records.

Therefore, pursuant to the Department's authority to monitor compliance with the Federal JJDP Act, we would appreciate your cooperation in instructing the appropriate intake or probation officials to implement whatever steps are needed in order to remedy the recordkeeping problems noted above.

Thank you for your anticipated cooperation in this matter.

Sincerely yours,

William Thompson, Commissioner
Department of Juvenile Justice

cc: Intake Director
Chief of Probation
Juvenile Detention Facility Superintendent

APPENDIX B

Rules and Regulations Regarding a Valid Court Order

Section 31.303

(3) Valid Court Order. For the purpose of determining whether a valid court order exists and a juvenile has been found to be in violation of that valid order all of the following conditions must be present prior to secure incarceration:

(i) The juvenile must have been brought into a court of competent jurisdiction and made subject to an order issued pursuant to proper authority. The order must be one which regulates future conduct of the juvenile.

(ii) The court must have entered a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedures.

(iii) The juvenile in question must have received adequate and fair warning of the consequences of violation of the order at the time it was issued and such warning must be provided to the juvenile and to his attorney and/or to his legal guardian in writing and be reflected in the court record and proceedings.

(iv) All judicial proceedings related to an alleged violation of a valid court order must be held before a court of competent jurisdiction. A juvenile accused of violating a valid court order may be held in secure detention beyond the 24-hour grace period permitted for a noncriminal juvenile offender under OJJDP monitoring policy, for protective purposes as prescribed by State law, or to assure the juvenile's appearance at the violation hearing, as provided by State law, if there has been a judicial determination based on a hearing during the 24-hour grace period that there is probable cause to believe the juvenile violated the court order. In such case the juvenile may be held pending a violation hearing for such period of time as is provided by State law, but in no event should detention prior to a violation hearing exceed 72 hours exclusive of nonjudicial days. A juvenile found in a violation hearing to have violated a court order may be held in a secure detention or correctional facility.

(v) Prior to and during the violation hearing the following full due process rights must be provided:

(A) The right to have the charges against the juvenile in writing served upon him a reasonable time before the hearing;

(B) The right to a hearing before a court;

(C) The right to an explanation of the nature and consequences of the proceedings;

(D) The right to legal counsel, and the right to have such counsel appointed by the court if indigent;

(E) The right to confront witnesses;

(F) The right to present witnesses;

(G) The right to have a transcript or record of the proceedings; and

(H) The right of appeal to an appropriate court.

(vi) In entering any order that directs or authorizes disposition of placement in a secure facility, the judge presiding over an initial probable cause hearing or violation hearing must determine that all the elements of a valid court order (paragraphs (i)(3), (i), (ii), (iii), of this section) and the applicable due process rights (paragraphs (i)(3), (v) of this section) were afforded the juvenile and, in the case of a violation hearing the judge must determine that there is no less restrictive alternative appropriate to the needs of the juvenile and the community.

(vii) A non-offender such as a dependent or neglected child cannot be placed in secure detention or correctional facilities for violating a valid court order.

## Valid Court Order Checklist

For the purpose of determining whether a valid court order exists and a juvenile has been found to be in violation of that valid order all of the following conditions must be present prior to secure incarceration:

1. _____ Has the juvenile been brought before a court of competent jurisdiction?

2. _____ Was the court order issued pursuant to proper authority?

3. _____ Does the court order regulate future conduct of the juvenile?

4. _____ Was a judgement and/or remedy rendered in accord with established legal principles based on the facts of the case?

5. _____ Did the hearing observe proper procedures?

6. _____ Did the juvenile receive adequate and fair warning of the consequences of violation of the order at the time it was issued?

7. _____ Was this warning provided to the juvenile and to his attorney and/or to his legal guardian in writing?

8. _____ Was the warning reflected in the court record and proceedings?

9. _____ Has there been judicial determination, based on a hearing, there is probable cause to believe the juvenile violated the court order?

10. _____ Was this probable cause hearing held during the 24-hour grace period following the juvenile's placement in secure detention?

11. _____ Was the violation hearing conducted within 72 hours, exclusive of non-judicial days?

12. _____ Prior to and during the violation hearing were the following full due process rights provided?

    _____ The right to have the charges against the juvenile in writing served upon him a reasonable time before the hearing;

    _____ The right to a hearing before a court;

_____ The right to an explanation of the nature and consequences of the proceedings;

_____ The right to legal counsel, and the right to have such counsel appointed by the court if indigent;

_____ The right to confront witnesses;

_____ The right to present witnesses;

_____ The right to have a transcript or record of the proceedings; and

_____ The right of appeal to an appropriate court.

13. _____ At the violation hearing did the judge determine that there is no less restrictive alternative appropriate to the needs of the juvenile and the community?

If <u>all</u> of the above conditions are present, and the juvenile status offender is found in a violation hearing to have violated a court order, the juvenile may be held in a secure detention or correctional facility. However, a non-offender such as a dependent or neglected child cannot be placed in a secure detention or correctional facility for violating a valid court order.